

***Uniform Reference to Day of Availability***

§229.15(b) requires banks to refer to the day funds will be available for withdrawal in a uniform manner in all of their disclosures. Disclosures must refer to when funds will be available for withdrawal as on “the \_\_\_\_\_ business day after” the day of deposit. The first business day is the business day following the banking day the deposit was received, and the last business day is the day on which the funds are made available.

***Multiple Accounts and Multiple Account Holders***

A bank does not need to give multiple disclosures to customers who have more than one account if the accounts are subject to the same availability policies. In addition, the bank does not have to give separate disclosures to joint account holders. A single disclosure to one of the holders of the joint account is permissible under §229.15(c).

***Dormant or Inactive Accounts***

Section 229.15(d) provides that the bank does not have to give disclosures to customers who have dormant or inactive accounts.

***Specific Availability Policy Disclosure – §229.16***

A bank must provide its customers with a disclosure that describes its funds availability policy. The disclosure must reflect the policy followed by the institution in most cases; however, the institution may impose longer delays on a case-by-case basis or by invoking one of the exceptions in §229.13, provided this is reflected in the disclosure.

***Content of Specific Availability Policy Disclosure***

The specific availability policy disclosure in §229.16(b) must include, as applicable, the following:

- A summary of the bank's availability policy;
- A description of the categories of deposits or checks used by the bank when it delays availability, such as local or nonlocal checks; how to determine the category to which a particular deposit or check belongs; and when each category will be available for withdrawal (including a description of the bank's business days and when a deposit is considered received);
- A description of any of the exceptions in §229.13 that may be invoked by the bank, including the time the deposited funds will generally become available for withdrawal and a statement that the bank will notify the customer if the bank invokes one of the exceptions;
- A description of any case-by-case policy of delaying availability which may result in deposited funds being available for withdrawal later than the time periods stated in the bank's availability policy (*see* specific requirements under §229.16(c)(1)); and

- A description of how the customer can differentiate between a proprietary and nonproprietary ATM, if the bank makes funds from deposits at nonproprietary ATMs available later than funds from deposits at proprietary ATMs.

***Longer Delays on a Case-by-Case Basis***

A bank that has a policy of making deposited funds available for withdrawal sooner than required, may extend the time when funds are available up to the time periods allowed under the regulation on a case-by-case basis. However, the bank must include the following in its specific policy disclosure under §229.16(c):

- A statement that the time when deposited funds are available for withdrawal may be extended in some cases, and the latest time deposited funds will be available for withdrawal;
- A statement that the bank will notify the customer if funds deposited in the customer's account will not be available for withdrawal until after the time periods stated in the bank's availability policy; and
- A statement that customers should ask if they need to know when a particular deposit will be available for withdrawal.

When a depository bank extends the time that funds will be available for withdrawal, on a case-by-case basis, it must provide the depositor with a written notice. The notice shall include the following information:

- The customer's account number;
- The date of the deposit;
- The amount of the deposit being delayed; and
- The day the funds will be available for withdrawal.

The notice must be provided at the time of the deposit, unless the deposit is not made in person to an employee of the depository bank, or when the decision to delay availability is made after the time of the deposit. If notice is not given at the time of the deposit, the depository bank must mail or deliver the notice to the customer no later than the first business day following the banking day the deposit is made.

A depository bank that extends the time when funds will be available for withdrawal on a case-by-case basis and does not furnish the depositor with written notice at the time of deposit may not assess any fees for any subsequent overdrafts (including use of a line of credit) or return of checks or other debits to the account, if:

- The overdraft or return of the check or other debit would not have occurred except for the fact that the deposited funds were delayed under §229.16(c)(1) of the regulation; and

- The deposited check was paid by the paying bank.

However, the depository bank may assess an overdraft or returned check fee if it includes a notice concerning overdraft and returned check fees with the disclosure required in §229.16(c)(2) and, when required, refunds any such fees upon the request of the customer. The overdraft and returned check notice must state that the customer may be entitled to a refund of overdraft or returned check fees that are assessed if the check subject to the delay is paid, and state how to obtain a refund.

### ***Credit Union Notice of Interest Payment Policy***

Under §229.16(d), if a credit union begins to accrue interest or dividends on all deposits made in an interest-bearing account, including cash deposits, at a later time than the day specified in §229.14(a), the institution's specific policy disclosures must contain an explanation of when interest or dividends on deposited funds will begin to accrue.

### **Initial Disclosures – §229.17**

#### ***New Accounts***

Section 229.17(a) states a bank must provide potential customers with the disclosures described in §229.16 before an account is opened.

### **Additional Disclosure Requirements – §229.18**

#### ***Deposit Slips***

Under §229.18(a), all preprinted deposit slips given to customers must include a notice that deposits may not be available for immediate withdrawal.

#### ***Location Where Employees Accept Consumer Deposits***

Section 229.18(b) provides that a bank must post, at a conspicuous place at each location where its employees receive deposits to consumer accounts, a notice that sets forth the time periods applicable to the availability of funds deposited.

#### ***Automated Teller Machines***

Under §229.18(c), a depository bank must post or provide a notice at each ATM location that funds deposited in the ATM may not be available for immediate withdrawal. A depository bank that operates an off-premises ATM from which deposits are removed not more than two times each week, as described in §229.19(a)(4), must disclose at or on the ATM the days in which deposits made at the ATM will be considered received.

#### ***Upon Request***

Section 229.18(d) states a bank must provide a copy of its specific availability policy disclosure described in §229.16 to any person who requests it.

### ***Changes in Policy***

Thirty days prior to implementation, a bank must send notification of a change to the bank's availability policy to all account holders, if adversely affected by the change. Under §229.18(e), changes that result in faster availability may be disclosed no later than 30 days after implementation.

### **Miscellaneous – §229.19**

#### ***When Funds are Considered Deposited***

Section 229.19(a) provides rules that govern when funds are considered deposited for purposes of Subpart B of the regulation. The time that funds must be made available for withdrawal is measured from the day the deposit is "received." Funds received at a staffed teller station or ATM are considered deposited when received by the teller or placed in the ATM. Funds mailed to the depository bank are considered deposited on the banking day they are received by the depository bank. The funds are received by the depository bank at the time the mail is delivered to the bank, even if the mail is initially delivered to a mail room, rather than the check processing area.

Funds, however, may also be deposited at an unstaffed facility such as a night depository or lock box. Funds deposited at a night depository are considered deposited on the banking day the deposit is removed, and the contents of the deposit are accessible to the depository bank for processing. For example, some businesses deposit their funds in a locked bag at the night depository late in the evening and return to the bank the following day to open the bag. Other depositors may have an agreement with their bank that the deposit bag must be opened under the dual control of the bank and the depositor. In these cases, the funds are considered deposited when the customer returns to the bank and opens the deposit bag.

Funds deposited through a lock box arrangement are considered deposited on the day the deposit is removed from the lock box and are accessible to the depository bank for processing. A lock box is typically used by a corporation for the collection of bill payments or other check receipts.

The regulation contains a special rule for off-premise ATMs that are not serviced daily. Funds deposited at these ATMs are considered deposited on the day they are removed from the ATM, if the ATM is not serviced more than two times each week. This special provision is geared toward those banks whose practice is to service remote ATMs infrequently. If a depository bank uses this provision, it must post a notice at the ATM informing depositors that funds deposited at the ATM may not be considered received on the date of deposit.

Funds deposited on a day the depository bank is closed, or after the bank's cut-off hour, may be considered made on the next banking day. Generally, a bank may establish a cut-off